

REMARKS

Pursuant to the entry of the present amendment, Claims 1-14 are pending; Claims 15-24 are cancelled; Claims 1, 2, 3 and 4 have been amended; and Claims 4, 5, and 7-12 are withdrawn. Claims 1-3 have been amended to exclude the peptides of SEQ ID NOS:21, 22 and 24, which are not encompassed by any of the formulas of the sequence clusters SEQ ID NOS:25-33. Withdrawn Claim 4 has been amended to correct a typographical error.

I. Claim Rejections under 35 U.S.C. §112

The Examiner rejected Claims 1 – 3, 6, and 12-14 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Applicants respectfully traverse the rejection for the following reasons.

Claim 1 requires that the skin binding peptide have a sequence that is at least 50% identical to any one of the amino acid sequences listed in Table 1 and (not “or”) that the sequence also belong to sequence clusters having the formulas disclosed as SEQ ID NOS:25-33, as disclosed at page 9 of the specification. For each of the sequence clusters (SEQ ID NOS:25-33) there are at least two skin binding peptides that have the corresponding sequence cluster formula. For example, peptides of SEQ ID NOS:5 and 6 both fall within the cluster of sequences encompassed by the formula of SEQ ID NO:32 *i.e.* LXXXRMK. SEQ ID NOS: 5 and 6 also share 58% identity; and bind skin. Similarly, SEQ ID NOS:1 and 2 are encompassed by the formula of SEQ ID NO:30; SEQ ID NOS:3 and 4 are encompassed by the formula of SEQ ID NO:31; SEQ ID NOS:7, 8, and 23 are encompassed by the formula of SEQ ID NO:33; SEQ ID NOS:9 and 10 are encompassed by the formula of SEQ ID NO:25; SEQ ID NOS:11, 12, and 13 are encompassed by the formula of SEQ ID NO:26; SEQ ID NOS:14 and 15 are encompassed by the formula of SEQ ID NO:27; SEQ ID NOS:16, 19 and 20 are encompassed by the formula of SEQ ID NO:28; and SEQ ID NOS:17 and 18 are encompassed by the formula of SEQ ID NO:29. Thus, the written description provides relevant identifying characteristics *i.e.* functional characteristic (skin binding) coupled with a disclosed correlation between structure (provided by the sequence and formula) and function (skin binding). The structural features that distinguish the skin binding

peptides in the genus from others are provided in the disclosure by the invariant amino acid residues that are encompassed by the formula of the cluster sequences.

Thus, Applicants submit that the requirement for written description of the genus of Claim 1 is provided, and respectfully request that the rejection of the claims under 35 U.S.C. §112 be withdrawn.

II. Double Patenting

The Examiner has rejected Claims 1-3, 6, and 12-14 on the ground of non-statutory obviousness double patenting as being unpatentable over claims in US Patents 7,220,405, 7,285,264, 7,309,482, and US Application serial No. 11/923,829. The Examiner requested that Applicants file a Terminal Disclaimer.

The present application is assigned to Genencor, while the Assignee of the cited US patents and patent application is E.I. du Pont de Nemours and Company.

Therefore, Applicants may not file a Terminal Disclaimer as requested by the Examiner.

CONCLUSION

Applicants submit that this paper fully addresses the Office Action mailed July 11, 2008. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at (650) 846-7636.

This paper is accompanied by a request for Extension of Time under 37 C.F.R. 1.136(a) of ONE month extending the time for response to November 11, 2008. This response is filed within the extended deadline and is, therefore, timely filed. The Commissioner is authorized to charge any fees which may be required to Deposit Account No. 07-1048 (Docket No. GC788-US).

Respectfully submitted,

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